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SENATE BILL 749

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Mary Kay Papen

AN ACT

RELATING TO HEALTH CARE; AMENDING AND ENACTING SECTIONS OF THE
UNIFORM HEALTH-CARE DECISIONS ACT TO PROVIDE FOR MENTAL HEALTH
TREATMENT DIRECTIVES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-7A-1 NMSA 1978 (being Laws 1995,
Chapter 182, Section 1, as amended) is amended to read:

"24-7A-1. DEFINITIONS. -- As used in the Uniform Health-
Care Decisions Act:

A. "advance health-care directive" means an
individual instruction or a power of attorney for health care
made, in either case, while the individual has capacity;

B. "advance directive for mental health treatment"
means an individual instruction or power of attorney for mental
health treatment made pursuant to the Uniform Health-Care

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1 Decisions Act;

2 [B-] C. "agent" means an individual designated in a
3 power of attorney for health care to make a health-care or
4 mental health treatment decision for the individual granting
5 the power;

6 [C-] D. "capacity" means an individual's ability to
7 understand and appreciate the nature and consequences of
8 proposed health care or mental health treatment, including its
9 significant benefits, risks and alternatives to proposed health
10 care or mental health treatment and to make and communicate an
11 informed health-care or mental health treatment decision. A
12 written determination or certification of lack of capacity
13 shall be made only according to the provisions of Section
14 24-7A-11 NMSA 1978;

15 [D-] E. "emancipated minor" means a person between
16 the ages of sixteen and eighteen who has been married, who is
17 on active duty in the armed forces or who has been declared by
18 court order to be emancipated;

19 [E-] F. "guardian" means a judicially appointed
20 guardian or conservator having authority to make a health-care
21 or mental health decision for an individual;

22 [F-] G. "health care" means any care, treatment,
23 service or procedure to maintain, diagnose or otherwise affect
24 an individual's physical or mental [~~condition~~] health;

25 [G-] H. "health-care decision" means a decision

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1 made by an individual or the individual's agent, guardian or
2 surrogate, regarding the individual's health care or mental
3 health treatment, including:

4 (1) selection and discharge of health-care or
5 mental health treatment providers and institutions;

6 (2) approval or disapproval of diagnostic
7 tests, surgical procedures, programs of medication, [~~and~~]
8 orders not to resuscitate and mental health treatment;

9 (3) directions relating to life-sustaining
10 treatment, including withholding or withdrawing life-sustaining
11 treatment and the termination of life support; and

12 (4) directions to provide, withhold or
13 withdraw artificial nutrition and hydration and all other forms
14 of health care;

15 [~~H.~~] I. "health-care institution" means an
16 institution, facility or agency licensed, certified or
17 otherwise authorized or permitted by law to provide health care
18 or mental health treatment in the ordinary course of business;

19 [~~F.~~] J. "health-care provider" means an individual
20 licensed, certified or otherwise authorized or permitted by law
21 to provide health care or mental health treatment in the
22 ordinary course of business or practice of a profession;

23 [~~J.~~] K. "individual instruction" means an
24 individual's direction concerning a health-care or mental
25 health treatment decision for the individual, made while the

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1 individual has capacity;

2 ~~[K-]~~ L. "life-sustaining treatment" means any
3 medical treatment or procedure without which the individual is
4 likely to die within a relatively short time, as determined to
5 a reasonable degree of medical certainty by the primary
6 physician;

7 M. "mental health treatment" means convulsive
8 treatment, treatment with psychoactive medication or admission
9 to and retention in a facility, if required;

10 N. "mental illness" means a substantial disorder of
11 thought, mood, perception, psychological orientation or memory
12 that significantly impairs judgment, behavior, capacity to
13 recognize reality or ability to meet the ordinary demands of
14 life;

15 ~~[L-]~~ O. "person" means an individual, corporation,
16 business trust, estate, trust, partnership, association, joint
17 venture, government, governmental subdivision, agency or
18 instrumentality or any other legal or commercial entity;

19 ~~[M-]~~ P. "physician" means an individual authorized
20 to practice medicine, including psychiatry, or osteopathy;

21 Q. "psychologist" means a licensed prescribing
22 psychologist;

23 ~~[N-]~~ R. "power of attorney for health care or
24 mental health treatment" means the designation of an agent to
25 make health-care or mental health treatment decisions for the

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1 individual granting the power, made while the individual has
2 capacity;

3 ~~[θ.]~~ S. "primary physician" means a physician
4 designated by an individual or the individual's agent, guardian
5 or surrogate to have primary responsibility for the
6 individual's health care or, in the absence of a designation or
7 if the designated physician is not reasonably available, a
8 physician who undertakes the responsibility;

9 T. "primary psychologist" means a psychologist
10 designated by an individual or the individual's agent, guardian
11 or surrogate to have primary responsibility for the
12 individual's mental health treatment or, in the absence of a
13 designation or if the designated psychologist is not reasonably
14 available, a physician or psychologist who undertakes the
15 responsibility;

16 ~~[P.]~~ U. "principal" means an adult or emancipated
17 minor who, while having capacity, has made a power of attorney
18 for health care by which he delegates his right to make health-
19 care decisions for himself to an agent;

20 ~~[Q.]~~ V. "qualified health-care professional" means
21 a health-care provider who is a physician, physician assistant,
22 nurse practitioner, nurse, psychologist or social worker;

23 ~~[R.]~~ W. "reasonably available" means readily able
24 to be contacted without undue effort and willing and able to
25 act in a timely manner considering the urgency of the patient's

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1 health-care needs;

2 [S-] X. "state" means a state of the United States,
3 the District of Columbia, the commonwealth of Puerto Rico or a
4 territory or insular possession subject to the jurisdiction of
5 the United States;

6 [T-] Y. "supervising health-care provider" means
7 the primary physician or psychologist or, if there is no
8 primary physician or psychologist or the primary physician or
9 psychologist is not reasonably available, the health-care
10 provider who has undertaken primary responsibility for an
11 individual's health care;

12 [U-] Z. "surrogate" means an individual, other than
13 a patient's agent or guardian, authorized under the Uniform
14 Health-Care Decisions Act to make a health-care decision for
15 the patient; and

16 [V-] AA. "ward" means an adult or emancipated minor
17 for whom a guardian has been appointed. "

18 Section 2. Section 24-7A-2 NMSA 1978 (being Laws 1995,
19 Chapter 182, Section 2) is amended to read:

20 "24-7A-2. ADVANCE HEALTH-CARE DIRECTIVES. --

21 A. An adult or emancipated minor, while having
22 capacity, has the right to make his [or her] own health-care
23 decisions and may give an individual instruction. The
24 individual instruction may be oral or written; if oral, it
25 [must] shall be made by personally informing a health-care

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1 provider. The individual instruction may be limited to take
2 effect only if a specified condition arises.

3 B. An adult or emancipated minor, while having
4 capacity, may execute a power of attorney for health care,
5 which may authorize the agent to make any health-care decision
6 the principal could have made while having capacity. The power
7 [~~must~~] shall be in writing and signed by the principal. The
8 power remains in effect notwithstanding the principal's later
9 incapacity under the Uniform Health-Care Decisions Act or
10 Article 5 of the Uniform Probate Code. The power may include
11 individual instructions. Unless related to the principal by
12 blood, marriage or adoption, an agent may not be an attending
13 physician or psychologist or an employee of the physician or
14 psychologist or an owner, operator or employee of a health-care
15 institution at which the principal is receiving care.

16 C. Unless otherwise specified in a power of
17 attorney for health care, the authority of an agent becomes
18 effective only upon a determination or certification that the
19 principal lacks capacity and ceases to be effective upon a
20 determination that the principal has recovered capacity.

21 D. Unless otherwise specified in a written advance
22 health-care directive [~~a~~] or advance directive for mental
23 health treatment, a written determination or certification that
24 an individual lacks or has recovered capacity or that another
25 condition exists that affects an individual instruction or the

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1 authority of an agent shall be made according to the provisions
2 of Section [~~11 of the Uniform Health Care Decisions Act~~]
3 24-7A-11 NMSA 1978.

4 E. An agent shall make a health-care decision in
5 accordance with the principal's individual instructions, if
6 any, and other wishes to the extent known to the agent.
7 Otherwise, the agent shall make the decision in accordance with
8 the agent's determination of the principal's best interest. In
9 determining the principal's best interest, the agent shall
10 consider the principal's personal values to the extent known to
11 the agent.

12 F. A health-care decision made by an agent for a
13 principal is effective without judicial approval.

14 G. A written advance health-care directive or
15 advance directive for mental health treatment may include the
16 individual's nomination of a guardian of the [~~person~~]
17 individual.

18 H. The fact that an individual has executed an
19 advance directive for mental health treatment shall not
20 constitute an indication of mental incompetence.

21 I. For purposes of the Uniform Health-Care
22 Decisions Act, at least one witness shall not be:

23 (1) an agent of the principal;

24 (2) related to the principal by blood or
25 marriage;

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1 (3) entitled to any part of the principal's
2 estate or have a claim against the principal's estate;

3 (4) the attending physician or psychologist;
4 or

5 (5) an owner, operator or employee of a
6 health-care institution at which the principal is receiving
7 care or of any parent organization of the health-care
8 institution. "

9 Section 3. Section 24-7A-2.1 NMSA 1978 (being Laws 1997,
10 Chapter 168, Section 14) is amended to read:

11 "24-7A-2.1. PROHIBITED PRACTICE. --

12 A. No insurer or other provider of benefits
13 regulated by the New Mexico Insurance Code or a state agency
14 shall require a person to execute or revoke an advance health-
15 care directive or advance directive for mental health treatment
16 as a condition for membership in, being insured for or
17 receiving coverage or benefits under an insurance contract or
18 plan.

19 B. No insurer may condition the sale, procurement
20 or issuance of a policy, plan, contract, certificate or other
21 evidence of coverage, or entry into a pension, profit-sharing,
22 retirement, employment or similar benefit plan, upon the
23 execution or revocation of an advance health-care directive or
24 advance directive for mental health treatment; nor shall the
25 existence of an advance health-care directive or advance

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1 directive for mental health treatment modify the terms of an
2 existing policy, plan, contract, certificate or other evidence
3 of coverage of insurance.

4 C. The provisions of this section shall be enforced
5 by the superintendent of insurance under the New Mexico
6 Insurance Code. "

7 Section 4. Section 24-7A-3 NMSA 1978 (being Laws 1995,
8 Chapter 182, Section 3, as amended) is amended to read:

9 "24-7A-3. REVOCATION OF ADVANCE HEALTH-CARE DIRECTIVE OR
10 ADVANCE DIRECTIVE FOR MENTAL HEALTH TREATMENT. --

11 A. An individual, while having capacity, ~~may~~ revoke
12 the designation of an agent either by a signed writing or by
13 personally informing the supervising health-care provider. If
14 the individual cannot sign, a written revocation [~~must~~] shall
15 be signed for the individual and be witnessed by two witnesses
16 pursuant to Subsection I of Section 24-7A-2 NMSA 1978, each of
17 whom has signed at the direction and in the presence of the
18 individual and of each other.

19 B. An individual, while having capacity, ~~may~~ revoke
20 all or part of an advance health-care directive or advance
21 directive for mental health treatment, other than the
22 designation of an agent, at any time and in any manner that
23 communicates an intent to revoke.

24 C. A health-care provider, agent, guardian or
25 surrogate who is informed of a revocation shall promptly

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1 communicate the fact of the revocation to the supervising
2 health-care provider and to any health-care institution at
3 which the patient is receiving care.

4 D. The filing of a petition for or a decree of
5 annulment, divorce, dissolution of marriage or legal separation
6 revokes a previous designation of a spouse as agent unless
7 otherwise specified in the decree or in a power of attorney for
8 health care. A designation revoked solely by this subsection
9 is revived by the individual's remarriage to the former spouse,
10 by a nullification of the divorce, annulment or legal
11 separation or by the dismissal or withdrawal, with the
12 individual's consent, of a petition seeking annulment, divorce,
13 dissolution of marriage or legal separation.

14 E. An advance health-care directive or advance
15 directive for mental health treatment that conflicts with an
16 earlier advance health-care directive or advance directive for
17 mental health treatment revokes the earlier directive to the
18 extent of the conflict.

19 F. Unless otherwise specified in the power of
20 attorney for health-care or mental health treatment, an advance
21 health-care directive and advance directive for mental health
22 treatment shall be treated separately. A revocation of a power
23 of attorney for health-care treatment or for mental health
24 treatment shall not affect the validity of a power of attorney
25 for the other.

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1 G. An advance health-care directive or advance
2 directive for mental health treatment is valid only if it is
3 signed by the principal and two witnesses that are at least
4 eighteen years of age, pursuant to Subsection I of Section
5 24-7A-2 NMSA 1978 and the witnesses attest that the principal;

6 (1) is known to them;

7 (2) signed the advance health-care directive
8 or advance directive for mental health treatment in their
9 presence;

10 (3) appears to be capable; and

11 (4) is not acting under duress, fraud or undue
12 influence. "

13 Section 5. Section 24-7A-4 NMSA 1978 (being Laws 1995,
14 Chapter 182, Section 4, as amended) is amended to read:

15 "24-7A-4. OPTIONAL FORM FOR ADVANCE HEALTH-CARE
16 DIRECTIVE. --The following form may, but need not, be used to
17 create an advance health-care directive. The other sections of
18 the Uniform Health-Care Decisions Act govern the effect of this
19 or any other writing used to create an advance health-care
20 directive. An individual may complete or modify all or any
21 part of the following form:

22 "OPTIONAL ADVANCE HEALTH-CARE DIRECTIVE

23 Explanation

24 You have the right to give instructions about your own
25 health care. You also have the right to name someone else to

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1 make health-care decisions for you. This form lets you do
2 either or both of these things. It also lets you express your
3 wishes regarding the designation of your primary physician.

4 THIS FORM IS OPTIONAL. Each paragraph and word of this
5 form is also optional. If you use this form, you may cross
6 out, complete or modify all or any part of it. You are free to
7 use a different form. If you use this form, be sure to sign it
8 and date it.

9 PART 1 of this form is a power of attorney for health
10 care. PART 1 lets you name another individual as agent to make
11 health-care decisions for you if you become incapable of making
12 your own decisions or if you want someone else to make those
13 decisions for you now even though you are still capable. You
14 may also name an alternate agent to act for you if your first
15 choice is not willing, able or reasonably available to make
16 decisions for you. Unless related to you, your agent may not
17 be an owner, operator or employee of a health-care institution
18 at which you are receiving care.

19 Unless the form you sign limits the authority of your
20 agent, your agent may make all health-care decisions for you.
21 This form has a place for you to limit the authority of your
22 agent. You need not limit the authority of your agent if you
23 wish to rely on your agent for all health-care decisions that
24 may have to be made. If you choose not to limit the authority
25 of your agent, your agent will have the right to:

- 1 (a) consent or refuse consent to any care,
- 2 treatment, service or procedure to maintain,
- 3 diagnose or otherwise affect a physical or
- 4 mental condition;
- 5 (b) select or discharge health-care providers and
- 6 institutions;
- 7 (c) approve or disapprove diagnostic tests,
- 8 surgical procedures, programs of medication and
- 9 orders not to resuscitate; and
- 10 (d) direct the provision, withholding or withdrawal
- 11 of artificial nutrition and hydration and all
- 12 other forms of health care.

13 PART 2 of this form lets you give specific instructions
14 about any aspect of your health care. Choices are provided for
15 you to express your wishes regarding life-sustaining treatment,
16 including the provision of artificial nutrition and hydration,
17 as well as the provision of pain relief. In addition, you may
18 express your wishes regarding whether you want to make an
19 anatomical gift of some or all of your organs and tissue.
20 Space is also provided for you to add to the choices you have
21 made or for you to write out any additional wishes.

22 PART 3 of this form lets you designate a physician to have
23 primary responsibility for your health care.

24 After completing this form, sign and date the form at the
25 end. It is recommended but not required that you request two

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1 other individuals to sign as witnesses. Give a copy of the
2 signed and completed form to your physician, to any other
3 health-care providers you may have, to any health-care
4 institution at which you are receiving care and to any health-
5 care agents you have named. You should talk to the person you
6 have named as agent to make sure that he or she understands
7 your wishes and is willing to take the responsibility.

8 You have the right to revoke this advance health-care
9 directive or replace this form at any time.

10 * * * * *

11 PART 1

12 POWER OF ATTORNEY FOR HEALTH CARE

13 (1) DESIGNATION OF AGENT: I designate the
14 following individual as my agent to make health-care decisions
15 for me:

16 _____

17 (name of individual you choose as agent)

18 _____

19 (address) (city) (state) (zip code)

20 _____

21 (home phone) (work phone)

22 If I revoke my agent's authority or if my agent is not
23 willing, able or reasonably available to make a health-care
24 decision for me, I designate as my first alternate agent:

25 _____

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1 (name of individual you choose as first alternate agent)

2 _____

3 (address) (city) (state) (zip code)

4 _____

5 (home phone) (work phone)

6 If I revoke the authority of my agent and first alternate
7 agent or if neither is willing, able or reasonably available to
8 make a health-care decision for me, I designate as my second
9 alternate agent:

10 _____

11 (name of individual you choose as second alternate agent)

12 _____

13 (address) (city) (state) (zip code)

14 _____

15 (home phone) (work phone)

16 (2) AGENT'S AUTHORITY: My agent is authorized to
17 obtain and review medical records, reports and information
18 about me and to make all health-care decisions for me,
19 including decisions to provide, withhold or withdraw artificial
20 nutrition, hydration and all other forms of health care to keep
21 me alive, except as I state here:

22 _____

23 _____

24 (Add additional sheets if needed.)

25 (3) WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My

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1 agent's authority becomes effective when my primary physician
2 and one other qualified health-care professional determine that
3 I am unable to make my own health-care decisions. If I
4 initial this box [], my agent's authority to make health-care
5 decisions for me takes effect immediately.

6 (4) AGENT'S OBLIGATION: My agent shall make
7 health-care decisions for me in accordance with this power of
8 attorney for health care, any instructions I give in Part 2 of
9 this form and my other wishes to the extent known to my agent.
10 To the extent my wishes are unknown, my agent shall make
11 health-care decisions for me in accordance with what my agent
12 determines to be in my best interest. In determining my best
13 interest, my agent shall consider my personal values to the
14 extent known to my agent.

15 (5) NOMINATION OF GUARDIAN: If a guardian of my
16 person needs to be appointed for me by a court, I nominate the
17 agent designated in this form. If that agent is not willing,
18 able or reasonably available to act as guardian, I nominate the
19 alternate agents whom I have named, in the order designated.

20 PART 2

21 INSTRUCTIONS FOR HEALTH CARE

22 If you are satisfied to allow your agent to determine what
23 is best for you in making end-of-life decisions, you need not
24 fill out this part of the form. If you do fill out this part
25 of the form, you may cross out any wording you do not want.

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1 (6) END-OF-LIFE DECISIONS: If I am unable to make
2 or communicate decisions regarding my health care, and IF (i) I
3 have an incurable or irreversible condition that will result in
4 my death within a relatively short time, OR (ii) I become
5 unconscious and, to a reasonable degree of medical certainty, I
6 will not regain consciousness, OR (iii) the likely risks and
7 burdens of treatment would outweigh the expected benefits, THEN
8 I direct that my health-care providers and others involved in
9 my care provide, withhold or withdraw treatment in accordance
10 with the choice I have initialed below in one of the following
11 three boxes:

12 [] I CHOOSE NOT To Prolong Life

13 I do not want my life to be prolonged.

14 [] I CHOOSE To Prolong Life

15 I want my life to be prolonged as long as
16 possible within the limits of generally accepted health-care
17 standards.

18 [] I CHOOSE To Let My Agent Decide

19 My agent under my power of attorney for
20 health care may make life-sustaining treatment decisions for
21 me.

22 (7) ARTIFICIAL NUTRITION AND HYDRATION: If I have
23 chosen above NOT to prolong life, I also specify by marking my
24 initials below:

25 [] I DO NOT want artificial nutrition OR

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1 [] I DO want artificial nutrition.

2 [] I DO NOT want artificial hydration unless
3 required for my comfort OR

4 [] I DO want artificial hydration.

5 (8) RELIEF FROM PAIN: Regardless of the choices I
6 have made in this form and except as I state in the following
7 space, I direct that the best medical care possible to keep me
8 clean, comfortable and free of pain or discomfort be provided
9 at all times so that my dignity is maintained, even if this
10 care hastens my death:

11 _____
12 _____

13 (9) ANATOMICAL GIFT DESIGNATION: Upon my death I
14 specify as marked below whether I choose to make an anatomical
15 gift of all or some of my organs or tissue:

16 [] I CHOOSE to make an anatomical gift of all of
17 my organs or tissue to be determined by medical suitability at
18 the time of death, and artificial support may be maintained
19 long enough for organs to be removed

20 [] I CHOOSE to make a partial anatomical gift of
21 some of my organs and tissue as specified below, and artificial
22 support may be maintained long enough for organs to be removed.

23 _____
24 _____

25 [] I REFUSE to make an anatomical gift of any of

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1 my organs or tissue.

2 [] I CHOOSE to let my agent decide.

3 (10) OTHER WISHES: (If you wish to write your own
4 instructions, or if you wish to add to the instructions you
5 have given above, you may do so here.) I direct that:

6 _____
7 _____

8 (Add additional sheets if needed.)

9 PART 3

10 PRIMARY PHYSICIAN

11 (11) I designate the following physician as my
12 primary physician:

13 _____

14 (name of physician)

15 _____

16 (address) (city) (state) (zip code)

17 _____

18 (phone)

19 If the physician I have designated above is not willing,
20 able or reasonably available to act as my primary physician, I
21 designate the following physician as my primary physician:

22 _____

23 (name of physician)

24 _____

25 (address) (city) (state) (zip code)

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(phone)

* * * * *

(12) EFFECT OF COPY: A copy of this form has the same effect as the original.

(13) REVOCATION: I understand that I may revoke this OPTIONAL ADVANCE HEALTH-CARE DIRECTIVE at any time, and that if I revoke it, I should promptly notify my supervising health-care provider and any health-care institution where I am receiving care and any others to whom I have given copies of this power of attorney. I understand that I may revoke the designation of an agent either by a signed writing or by personally informing the supervising health-care provider.

(14) SIGNATURES: Sign and date the form here:

(date) (sign your name)

(address) (print your name)

(city) (state) (your social security number)

(Optional) SIGNATURES OF WITNESSES:

First witness Second witness

(print name) (print name)

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(address)	(address)
_____	_____
(city) (state)	(city) (state)
_____	_____
(signature of witness)	(signature of witness)
_____	_____
(date)	(date)". "

Section 6. A new section of the Uniform Health-Care Decisions Act, Section 24-7A-4.2 NMSA 1978, is enacted to read:

"Section 24-7A-4.2. [NEW MATERIAL] OPTIONAL FORM FOR ADVANCE DIRECTIVE FOR MENTAL HEALTH TREATMENT. --

A. A written instruction stating the mental health treatment wishes of the principal executed in accordance with the provisions of the Uniform Health-Care Decisions Act shall be substantially in the form provided by Subsection E of this section.

B. A principal may designate a capable person eighteen years of age or older to act as agent to make mental health treatment decisions. An alternative agent may also be designated to act as agent if the original agent is unable or unwilling to act at any time. An appointment of an agent shall be substantially in the form provided by Subsection E of this section.

C. An agent who has accepted the appointment in writing shall have authority to make decisions, in consultation

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1 with the attending physician or psychologist, about mental
2 health treatment on behalf of the principal only when the
3 principal is certified as to lack capacity and to require
4 mental health treatment as provided by Section 24-7A-11 NMSA
5 1978. These decisions shall be consistent with any wishes or
6 instructions the principal has expressed in the instruction.
7 If the wishes or instructions of the principal are not
8 expressed, the agent shall act in what the agent believes to be
9 in the best interest of the principal. The agent may consent
10 to inpatient mental health treatment on behalf of the principal
11 if so authorized in the advance directive for mental health
12 treatment.

13 D. An agent may withdraw by giving notice to the
14 principal. If a principal lacks capacity, the agent may
15 withdraw by giving notice to the named alternative agent if
16 any, and, if none, then to the attending physician or health-
17 care provider. The attending physician or health-care provider
18 shall note the withdrawal of the last named agent as part of
19 the principal's medical record.

20 E. An advance directive for mental health treatment
21 shall be notarized and shall be in substantially the following
22 form:

23 "ADVANCE DIRECTIVE FOR MENTAL HEALTH TREATMENT

24 I, _____, being of sound mind, willfully and
25 voluntarily make known my wishes about mental health treatment,

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1 by my instructions to others through my advance directive for
2 mental health treatment, or by my appointment of an agent, or
3 both. I thus do hereby declare:

4 I. DECLARATION FOR MENTAL HEALTH TREATMENT

5 If my attending physician or psychologist and another physician
6 or psychologist determine that my ability to receive and
7 evaluate information effectively or communicate decisions is
8 impaired to such an extent that I lack the capacity to refuse
9 or consent to mental health treatment and that mental health
10 treatment is necessary, I direct my attending physician or
11 psychologist and other health-care providers, pursuant to the
12 Uniform Health-Care Decisions Act, to provide the mental health
13 treatment I have indicated below by my signature.

14 I understand that "mental health treatment" means convulsive
15 treatment, treatment with psychoactive medication and admission
16 to and retention in a health-care facility for a period up to
17 _____ days.

18 I direct the following concerning my mental health care:
19 _____
20 _____

21 I direct the following concerning medications and drug studies:
22 _____
23 _____

24 I direct the following concerning mental health therapeutic
25 modalities, including electroconvulsive therapy, psychosurgery,

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1 seclusion and restraint:

2 _____
3 _____

4 I further state that this document and the information
5 contained in it may be released to any requesting licensed
6 mental health professional.

7 _____
8 principal's signature date

9 _____
10 witness 1 date

11 _____
12 witness 2 date

13 II. APPOINTMENT OF AGENT

14 If my attending physician or psychologist and another physician
15 or psychologist determine that my ability to receive and
16 evaluate information effectively or communicate decisions is
17 impaired to such an extent that I lack the capacity to refuse
18 or consent to mental health treatment and that mental health
19 treatment is necessary, I direct my attending physician or
20 psychologist and other health-care providers, pursuant to the
21 Uniform Health-Care Decisions Act, to follow the instructions
22 of my agent.

23 I hereby appoint:

24 NAME _____

25 ADDRESS _____

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1 TELEPHONE # _____ to act as my
2 agent to make decisions regarding my mental health treatment if
3 I become incapable of giving or withholding informed consent
4 for that treatment.

5 If the person named above refuses or is unable to act on my
6 behalf, or if I revoke that person's authority to act as my
7 agent, I authorize the following person to act as my agent:

8 NAME _____

9 ADDRESS _____

10 TELEPHONE # _____

11 My agent is authorized to make decisions that are consistent
12 with the wishes I have expressed in my declaration. If my
13 wishes are not expressed, my agent is to act in what he or she
14 believes to be my best interest.

15 _____

16 (signature of principal /date)

17 III. CONFLICTING PROVISION

18 I understand that if I have completed both a declaration and
19 have appointed an agent and if there is a conflict between my
20 agent's decision and my declaration, my declaration shall take
21 precedence unless I indicate otherwise.

22 _____ (signature)

23 I understand that if I have completed both an advance health-
24 care directive and an advance directive for mental health
25 treatment, that those directives should be executed as separate

1 instructions.

2 _____ (signature)

3
4 IV. OTHER PROVISIONS

5 a. In the absence of my ability to give directions regarding
6 my mental health treatment, it is my intention that this
7 advance directive for mental health treatment shall be honored
8 by my family and physicians or psychologists as the expression
9 of my legal right to consent or to refuse to consent to mental
10 health treatment.

11 b. I direct the following concerning the care of my minor
12 children:

13 _____
14 c. This advance directive for mental health treatment shall be
15 in effect until it is revoked.

16 d. I understand that I may revoke this advance directive for
17 mental health treatment at any time.

18 e. I understand and agree that if I have any prior advance
19 directives for mental health treatment, and if I sign this
20 advance directive for mental health treatment, my prior advance
21 directives for mental health treatment are revoked.

22 f. I understand that full importance of this advance directive
23 for mental health treatment and I am emotionally and mentally
24 competent to make this advance directive for mental health
25 treatment.

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1 Signed this _____ day of _____, 20__

2 _____

3 (signature)

4 _____

5 (city, county and state of residence)

6 This advance directive was signed in my presence.

7 _____

8 (signature of witness)

9 _____

10 (address)

11 _____

12 (signature of witness)

13 _____

14 (address)

15 _____

16 (signature of attending physician and/or psychologist)

17 _____

18 (address)". "

19 Section 7. Section 24-7A-5 NMSA 1978 (being Laws 1995,
20 Chapter 182, Section 5, as amended) is amended to read:

21 "24-7A-5. DECISIONS BY SURROGATE. --

22 A. A surrogate may make a health-care decision for
23 a patient who is an adult or emancipated minor if the patient
24 has been determined according to the provisions of Section
25 24-7A-11 NMSA 1978 to lack capacity and no agent or guardian

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1 has been appointed or the agent or guardian is not reasonably
2 available.

3 B. An adult or emancipated minor, while having
4 capacity, may designate any individual to act as surrogate by
5 personally informing the supervising health-care provider. In
6 the absence of a designation or if the designee is not
7 reasonably available, any member of the following classes of
8 the patient's family who is reasonably available, in descending
9 order of priority, may act as surrogate:

10 (1) the spouse, unless legally separated or
11 unless there is a pending petition for annulment, divorce,
12 dissolution of marriage or legal separation;

13 (2) an individual in a long-term relationship
14 of indefinite duration with the patient in which the individual
15 has demonstrated an actual commitment to the patient similar to
16 the commitment of a spouse and in which the individual and the
17 patient consider themselves to be responsible for each other's
18 well-being;

19 (3) an adult child;

20 (4) a parent;

21 (5) an adult brother or sister; or

22 (6) a grandparent.

23 C. If none of the individuals eligible to act as
24 surrogate under Subsection B of this section is reasonably
25 available, an adult who has exhibited special care and concern

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1 for the patient, who is familiar with the patient's personal
2 values and who is reasonably available may act as surrogate.

3 D. A surrogate shall communicate his assumption of
4 authority as promptly as practicable to the patient, to members
5 of the patient's family specified in Subsection B of this
6 section who can be readily contacted and to the supervising
7 health-care provider.

8 E. If more than one member of a class [assumes]
9 assume authority to act as surrogate and they do not agree on a
10 health-care decision and the supervising health-care provider
11 is so informed, the supervising health-care provider shall
12 comply with the decision of a majority of the members of that
13 class who have communicated their views to the provider. If
14 the class is evenly divided concerning the health-care decision
15 and the supervising health-care provider is so informed, that
16 class and all individuals having lower priority are
17 disqualified from making the decision.

18 F. A surrogate shall make a health-care decision in
19 accordance with the patient's individual instructions, if any,
20 and other wishes to the extent known to the surrogate.
21 Otherwise, the surrogate shall make the decision in accordance
22 with the surrogate's determination of the patient's best
23 interest. In determining the patient's best interest, the
24 surrogate shall consider the patient's personal values to the
25 extent known to the surrogate.

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1 G. A health-care decision made by a surrogate for a
2 patient shall not be made solely on the basis of the patient's
3 pre-existing physical [~~or~~], medical or mental condition or pre-
4 existing or projected disability.

5 H. A health-care decision made by a surrogate for a
6 patient is effective without judicial approval.

7 I. A patient, at any time, may disqualify any
8 person, including a member of the patient's family, from acting
9 as the patient's surrogate by a signed writing or by personally
10 informing a health-care provider of the disqualification. A
11 health-care provider who is informed by the patient of a
12 disqualification shall promptly communicate the fact of
13 disqualification to the supervising health-care provider and to
14 any health-care institution at which the patient is receiving
15 care.

16 J. Unless related to the patient by blood, marriage
17 or adoption, a surrogate may not be an owner, operator or
18 employee of a health-care institution at which the patient is
19 receiving care.

20 K. A supervising health-care provider may require
21 an individual claiming the right to act as surrogate for a
22 patient to provide a written declaration under penalty of
23 perjury stating facts and circumstances reasonably sufficient
24 to establish the claimed authority."

25 Section 8. Section 24-7A-6 NMSA 1978 (being Laws 1995,
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1 Chapter 182, Section 6) is amended to read:

2 "24-7A-6. DECISIONS BY GUARDIAN. --

3 A. A guardian shall comply with the ward's
4 individual instructions and may not revoke the ward's advance
5 health-care directive or advance directive for mental health
6 treatment unless the appointing court expressly so authorizes
7 after notice to the agent and the ward.

8 B. A health-care decision of an agent appointed by
9 an individual having capacity takes precedence over that of a
10 guardian, unless the appointing court expressly directs
11 otherwise after notice to the agent and the ward.

12 C. Subject to the provisions of Subsections A and B
13 of this section, a health-care decision made by a guardian for
14 the ward is effective without judicial approval, if the
15 appointing court has expressly authorized the guardian to make
16 health-care decisions for the ward, in accordance with the
17 provisions of Section 45-5-312 NMSA 1978, after notice to the
18 ward and any agent. "

19 Section 9. Section 24-7A-6.1 NMSA 1978 (being Laws 1997,
20 Chapter 168, Section 13) is amended to read:

21 "24-7A-6.1. DECISIONS FOR UNEMANCIPATED MINORS. --

22 A. Except as otherwise provided by law, a parent or
23 guardian of an unemancipated minor may make that minor's
24 health-care decisions.

25 B. A parent or guardian of an unemancipated minor

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1 shall have the authority to withhold or withdraw life-
2 sustaining treatment for the unemancipated minor, subject to
3 the provisions of this section and the standards for surrogate
4 decision making for adults provided for in the Uniform Health-
5 Care Decisions Act.

6 C. Subject to the provisions of Subsection B of
7 this section, if an unemancipated minor has capacity sufficient
8 to understand the nature of that unemancipated minor's medical
9 condition, the risks and benefits of treatment and the
10 contemplated decision to withhold or withdraw life-sustaining
11 treatment, that unemancipated minor shall have the authority to
12 withhold or withdraw life-sustaining treatment.

13 D. For purposes of Subsection C of this section, a
14 determination or certification of the mental and emotional
15 capacity of an unemancipated minor shall be determined by two
16 qualified health-care professionals, one of whom shall be the
17 unemancipated minor's primary physician and the other of whom
18 shall be a physician that works with unemancipated minors of
19 the minor's age in the ordinary course of that physician's
20 health-care practice. If the unemancipated minor lacks
21 capacity due to mental illness or developmental disability, one
22 of the qualified health-care professionals, including a
23 psychologist, shall be a person whose training and expertise
24 aid in the assessment of functional impairment and who shall
25 make a written determination or certification regarding the

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1 capacity of the unemancipated minor pursuant to Subsection G of
2 Section 24-7A-11 NMSA 1978.

3 E. If the unemancipated minor's primary physician
4 has reason to believe that a parent or guardian of an
5 unemancipated minor, including a non-custodial parent, has not
6 been informed of a decision to withhold or withdraw life-
7 sustaining treatment, the primary physician shall make
8 reasonable efforts to determine if the uninformed parent or
9 guardian has maintained substantial and continuous contact with
10 the unemancipated minor and, if so, shall make reasonable
11 efforts to notify that parent or guardian before implementing a
12 decision.

13 F. If there is disagreement regarding the decision
14 to withhold or withdraw life-sustaining treatment for an
15 unemancipated minor, the provisions of Section 24-7A-11 NMSA
16 1978 shall apply.

17 G. For purposes of this section, "unemancipated
18 minor" means a person at or under the age of fifteen."

19 Section 10. Section 24-7A-7 NMSA 1978 (being Laws 1995,
20 Chapter 182, Section 7, as amended) is amended to read:

21 "24-7A-7. OBLIGATIONS OF HEALTH-CARE PROVIDER. --

22 A. Before implementing a health-care decision made
23 for a patient, a supervising health-care provider shall
24 promptly communicate to the patient the decision made and the
25 identity of the person making the decision.

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1 B. A supervising health-care provider who knows of
2 the existence of an advance health-care directive or advance
3 directive for mental health treatment, a revocation of an
4 advance health-care directive or advance directive for mental
5 health treatment, a challenge to a determination or
6 certification of lack of capacity or a designation or
7 disqualification of a surrogate shall promptly record its
8 existence in the patient's health-care record and, if it is in
9 writing, shall request a copy and, if one is furnished, shall
10 arrange for its maintenance in the health-care record.

11 C. A qualified health-care professional may
12 disclose an advance health-care directive or advance directive
13 for mental health treatment to other qualified health-care
14 professionals only when it is determined that disclosure is
15 necessary to give effect to or provide treatment in accordance
16 with an individual instruction.

17 [~~C.~~] D. A supervising health-care provider who
18 makes or is informed of a written determination or
19 certification pursuant to Subsection G of Section 24-7A-11 NMSA
20 1978 that a patient lacks or has recovered capacity or that
21 another condition exists that affects an individual instruction
22 or the authority of an agent, guardian or surrogate shall
23 promptly record the determination in the patient's health-care
24 record and ~~communicate~~ the determination or certification to
25 the patient and to any person then authorized to make health-

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1 care decisions for the patient.

2 [D-] E. Except as provided in Subsections [~~E~~ and] F
3 and G of this section, a health-care provider or health-care
4 institution providing care to a patient shall comply:

5 (1) before and after the patient is determined
6 to lack capacity, with an individual instruction of the patient
7 made while the patient had capacity;

8 (2) with a reasonable interpretation of [~~that~~]
9 the individual instruction made by a person then authorized to
10 make health-care decisions for the patient; and

11 (3) with a health-care decision for the
12 patient that is not contrary to an individual instruction of
13 the patient and is made by a person then authorized to make
14 health-care decisions for the patient, to the same extent as if
15 the decision had been made by the patient while having
16 capacity.

17 [~~E.~~] F. A health-care provider may decline to
18 comply with an individual instruction or health-care decision
19 for reasons of conscience. A health-care institution may
20 decline to comply with an individual instruction or health-care
21 decision if the instruction or decision is contrary to a policy
22 of the health-care institution that is expressly based on
23 reasons of conscience and if the policy was timely communicated
24 to the patient or to a person then authorized to make health-
25 care decisions for the patient.

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1 ~~[F-]~~ G. A health-care provider or health-care
2 institution ~~may~~ decline to comply with an individual
3 instruction or health-care decision that requires medically
4 ineffective health care or health care contrary to generally
5 accepted health-care standards applicable to the health-care
6 provider or health-care institution. "Medically ineffective
7 health care" means treatment that would not offer the patient
8 any significant benefit, as determined by a physician.

9 ~~[G-]~~ H. A health-care provider or health-care
10 institution that declines to comply with an individual
11 instruction or health-care decision shall:

12 (1) promptly so inform the patient, if
13 possible, and any person then authorized to make health-care
14 decisions for the patient;

15 (2) provide continuing care to the patient
16 until a transfer can be effected; and

17 (3) unless the patient or person then
18 authorized to make health-care decisions for the patient
19 refuses assistance, immediately make all reasonable efforts to
20 assist in the transfer of the patient to another health-care
21 provider or health-care institution that is willing to comply
22 with the individual instruction or decision.

23 ~~[H-]~~ I. A health-care provider or health-care
24 institution ~~[may]~~ shall not require or prohibit the execution
25 or revocation of an advance health-care directive or advance

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1 directive for mental health treatment as a condition for
2 providing health care.

3 ~~[F.]~~ J. The Uniform Health-Care Decisions Act does
4 not require or permit a health-care institution or health-care
5 provider to provide any type of health care for which the
6 health-care institution or health-care provider is not
7 licensed, certified or otherwise authorized or permitted by law
8 to provide. "

9 Section 11. Section 24-7A-8 NMSA 1978 (being Laws 1995,
10 Chapter 182, Section 8) is amended to read:

11 "24-7A-8. HEALTH-CARE INFORMATION. -- Unless otherwise
12 specified in an advance health-care directive or advance
13 directive for mental health treatment, a person then authorized
14 to make health-care decisions for a patient has the same rights
15 as the patient to request, receive, examine, copy and consent
16 to the disclosure of medical or any other health-care
17 information. "

18 Section 12. Section 24-7A-9 NMSA 1978 (being Laws 1995,
19 Chapter 182, Section 9, as amended) is amended to read:

20 "24-7A-9. IMMUNITIES. --

21 A. A health-care provider or health-care
22 institution acting in good faith and in accordance with
23 generally accepted health-care standards applicable to the
24 health-care provider or health-care institution is not subject
25 to civil or criminal liability or to discipline for

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1 unprofessional conduct for:

2 (1) complying or attempting to comply with a
3 health-care decision of a person apparently having authority to
4 make a health-care decision for a patient, including a decision
5 to withhold or withdraw health care or make an anatomical gift;

6 (2) declining to comply with a health-care
7 decision of a person based on a belief that the person then
8 lacked authority;

9 (3) complying or attempting to comply with an
10 advance health-care directive or advance directive for mental
11 health treatment and assuming that the directive was valid when
12 made and has not been revoked or terminated;

13 (4) declining to comply with a health-care
14 directive as permitted by Subsection [~~E-OR~~] F or G of Section
15 24-7A-7 NMSA 1978; or

16 (5) complying or attempting to comply with any
17 other provision of the Uniform Health-Care Decisions Act.

18 B. An individual acting as agent, guardian or
19 surrogate under the Uniform Health-Care Decisions Act is not
20 subject to civil or criminal liability or to discipline for
21 unprofessional conduct for health-care decisions made in good
22 faith. "

23 Section 13. Section 24-7A-10 NMSA 1978 (being Laws 1995,
24 Chapter 182, Section 10, as amended) is amended to read:

25 "24-7A-10. STATUTORY DAMAGES. --

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1 A. A health-care provider or health-care
2 institution that intentionally violates the Uniform Health-Care
3 Decisions Act is subject to liability to the aggrieved
4 individual for damages of five thousand dollars (\$5,000) or
5 actual damages resulting from the violation, whichever is
6 greater, plus reasonable attorney fees.

7 B. A person who intentionally falsifies, forges,
8 conceals, defaces or obliterates an individual's advance
9 health-care directive or advance directive for mental health
10 treatment or a revocation of an advance health-care directive
11 or advance directive for mental health treatment without the
12 individual's consent or a person who coerces or fraudulently
13 induces an individual to give, revoke or not give or revoke an
14 advance health-care directive or advance directive for mental
15 health treatment is subject to liability to that individual for
16 damages of five thousand dollars (\$5,000) or actual damages
17 resulting from the action, whichever is greater, plus
18 reasonable attorney fees.

19 C. The damages provided in this section are in
20 addition to other types of relief available under other law,
21 including civil and criminal law and law providing for
22 disciplinary procedures. "

23 Section 14. Section 24-7A-11 NMSA 1978 (being Laws 1995,
24 Chapter 182, Section 11, as amended) is amended to read:

25 "24-7A-11. CAPACITY. --

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1 A. The Uniform Health-Care Decisions Act does not
2 affect the right of an individual to make health-care decisions
3 while having capacity to do so.

4 B. An individual is presumed to have capacity to
5 make a health-care decision, to give or revoke an advance
6 health-care directive or advance directive for mental health
7 treatment and to designate a surrogate.

8 C. Unless otherwise specified in a written advance
9 health-care directive [a] or advance directive for mental
10 health treatment, a written determination or certification
11 pursuant to Subsection G of this section that an individual
12 lacks or has recovered capacity or that another condition
13 exists that affects an individual instruction or the authority
14 of an agent shall be made by two qualified health-care
15 professionals, one of whom shall be the primary physician,
16 including a psychologist. If the lack of capacity is
17 determined to exist because of mental illness or developmental
18 disability, one of the qualified health-care professionals
19 shall be a person whose training and expertise aid in the
20 assessment of functional impairment.

21 D. An individual shall not be determined to lack
22 capacity solely on the basis that the individual chooses not to
23 accept the treatment recommended by a health-care provider.

24 E. An individual, at any time, may challenge a
25 determination that the individual lacks capacity by a signed

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1 writing or by personally informing a health-care provider of
2 the challenge. A health-care provider who is informed by the
3 individual of a challenge shall promptly communicate the fact
4 of the challenge to the supervising health-care provider and to
5 any health-care institution at which the individual is
6 receiving care. Such a challenge shall prevail unless
7 otherwise ordered by the court in a proceeding brought pursuant
8 to the provisions of Section 24-7A-14 NMSA 1978.

9 F. A determination of lack of capacity under the
10 Uniform Health-Care Decisions Act shall not be evidence of
11 incapacity under the provisions of Article 5 of the Uniform
12 Probate Code.

13 G. A principal appearing to require mental health
14 treatment shall be examined by two persons, who shall be a
15 physician or qualified health-care professional and a
16 psychologist. If after the examination the principal is
17 determined to be incapable and is in need of mental health
18 treatment, a written certification, substantially in the form
19 provided in Subsection H of this section, of the principal's
20 condition shall be made a part of the principal's medical
21 record.

22 H. The following certification of the examination
23 of a principal determining whether the principal is in need of
24 mental health treatment and whether the principal is or is not
25 incapable may be used by examiners:

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1 "OPTIONAL EXAMINER' S CERTIFICATION

2 We, the undersigned, have made an examination of _____,

3 and do hereby certify that we have made a careful personal
4 examination of the actual condition of the person and on such
5 examination we find that _____:

- 6 1. (Is) (Is not) in need of mental health treatment; and
- 7 2. (Is) (Is not) incapable to participate in decisions about
8 (her)(his) mental health treatment.

9 The facts and circumstances on which we base our opinions are
10 stated in the following report of symptoms and history of case,
11 which is hereby made a part hereof.

12 According to the advance directive for mental health treatment,
13 (name of patient) _____, wishes to receive
14 mental health treatment in accordance with the preferences and
15 instructions stated in the advance directive for mental health
16 treatment.

17 We are duly licensed to practice in this state of New Mexico,
18 are not related to _____ by blood or marriage and have no
19 interest in her/his estate.

20 Witness our hands this _____ day of _____, 20_____

21 _____ M D., D. O., Ph. D., Other

22 _____ M D., D. O., Ph. D., Other

23 Subscribed and sworn to before me this _____ day of

24 _____, 20_____

25 _____

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Notary Public

REPORT OF SYMPTOMS AND HISTORY OF CASE BY EXAMINERS

1. GENERAL

Complete name _____

Place of residence _____

Sex _____ Ethnicity _____

Age _____

Date of Birth _____

2. STATEMENT OF FACTS AND CIRCUMSTANCES

Our determination that the principal (is)(is not) in need for
mental health treatment is based on the following:

Our determination that the principal (is)(is not) incapable of
participating in mental health treatment decisions is based on
the following:

3. NAME AND RELATIONSHIPS OF FAMILY MEMBERS/OTHERS TO BE

NOTIFIED

Other data _____

Dated at _____, New Mexico, this _____ day
of _____, 20 _____

M D. , D. O. , Ph. D. , Other

Address

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M D. , D. O. , Ph. D. , Other

Address". "

Section 15. Section 24-7A-12 NMSA 1978 (being Laws 1995, Chapter 182, Section 12) is amended to read:

"24-7A-12. EFFECT OF COPY. --A copy of a written advance health-care directive or advance directive for mental health treatment, revocation of an advance health-care directive or advance directive for mental health treatment or designation or disqualification of a surrogate has the same effect as the original. "

Section 16. Section 24-7A-13 NMSA 1978 (being Laws 1995, Chapter 182, Section 13, as amended) is amended to read:

"24-7A-13. EFFECT OF THE UNIFORM HEALTH-CARE DECISIONS ACT. --

A. The Uniform Health-Care Decisions Act does not create a presumption concerning the intention of an individual who has not made or who has revoked an advance health-care directive or advance directive for mental health treatment.

B. Death resulting from the withholding or withdrawal of health care in accordance with the Uniform Health-Care Decisions Act does not for any purpose:

(1) constitute a suicide, a homicide or other crime; or

(2) legally impair or invalidate a governing instrument, notwithstanding any term of the governing

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1 instrument to the contrary. "Governing instrument" means a
2 deed, will, trust, insurance or annuity policy, account with
3 POD (payment on death designation), security registered in
4 beneficiary form (TOD), pension, profit-sharing, retirement,
5 employment or similar benefit plan, instrument creating or
6 exercising a power of appointment or a dispositive, appointive
7 or nominative instrument of any similar type.

8 C. The Uniform Health-Care Decisions Act does not
9 authorize mercy killing, assisted suicide, euthanasia or the
10 provision, withholding or withdrawal of health care, to the
11 extent prohibited by other statutes of this state.

12 D. The Uniform Health-Care Decisions Act does not
13 authorize or require a health-care provider or health-care
14 institution to provide health care contrary to generally
15 accepted health-care standards applicable to the health-care
16 provider or health-care institution.

17 E. The Uniform Health-Care Decisions Act does not
18 authorize an agent or surrogate to consent to the admission of
19 an individual to a mental health-care facility. If the
20 individual's written advance health-care directive or advance
21 directive for mental health treatment expressly permits
22 treatment in a mental health-care facility, the agent or
23 surrogate may present the individual to a facility for
24 evaluation for admission.

25 F. The Uniform Health-Care Decisions Act does not

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1 affect other statutes of this state governing treatment for
2 mental illness of an individual admitted to a mental health-
3 care institution, including involuntary commitment to a mental
4 health-care institution for mental illness. "

5 Section 17. Section 24-7A-16 NMSA 1978 (being Laws 1995,
6 Chapter 182, Section 16, as amended) is amended to read:

7 "24-7A-16. TRANSITIONAL PROVISIONS. --

8 A. An advance health-care directive or advance
9 directive for mental health treatment is valid for purposes of
10 the Uniform Health-Care Decisions Act if it complies with the
11 provisions of that act, regardless of when or where executed or
12 communicated.

13 B. The Uniform Health-Care Decisions Act does not
14 impair a guardianship, living will, durable power of attorney,
15 right-to-die statement or declaration or other advance
16 directive for health-care decisions that is in effect before
17 July 1, 1995.

18 C. Any advance directive, durable power of attorney
19 for health care decisions, living will, right-to-die statement
20 or declaration or similar document that is executed in another
21 state or jurisdiction in compliance with the laws of that state
22 or jurisdiction shall be deemed valid and enforceable in this
23 state to the same extent as if it were properly made in this
24 state. "

25 Section 18. Section 24-7A-17 NMSA 1978 (being Laws 1995,

. 153621. 1

underscored material = new
[bracketed material] = delete

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Chapter 182, Section 17) is amended to read:

"24-7A-17. SHORT TITLE. -- [~~Sections 1 through 17 of this act~~] Chapter 24, Article 7A NMSA 1978 may be cited as the "Uniform Health-Care Decisions Act". "